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THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 29TH DAY OF MAY, 1998

BEFORE

THE HON'BLE MR.JUSTICE R.V.RAVEENDRAN

HOUSE RENT REVISION PETITION NO: 467/1998

BETWEEN:

Sri.Piraji Yallappa Hudre
254,
Mujawer Galli,
Belgaum.

PETITIONER

By Sri.Ananth Mandagi, and
Ujwala A Mandagi, Advs.,)

AND:

Sri. Parashram Yallappa Jadhav,
352,
Patil Galli, Belgaum.

RESPONDENT.

(By Sri.B.S.Kamate, Adv.,)

This petition is filed under Section 115 CPC against the order dtd. 9-2-1998 passed in HRC RP No.41/1989 on the file of the I Addl., District Judge, Belgaum, dismissing the revision petition and confirming the order passed in HRC No.1/79 and 2/1979 dtd. 28-2-89 on the file of the I addl., Munsiff, Belgaum, partly allowing the petition filed under Section 21(1)(h) of KRC Act.

This petition coming on for admission this day, the Court made the following:-

O R D E R

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Respondent is the landlord and petitioner is the tenant. The landlord filed two eviction petitions in HRC Nos.1/79 and 2/79 on the file of the learned I Additional Munsiff, Belgaum for evicting the petitioner herein in regard to two shops measuring 6' x 15' and 5' x 12'6". The tenant claims that he is carrying on the textile business in the bigger shop and running a cycle shop in the smaller shop. The landlord contended that he wants to carry on the business in leather and leather articles.

2. After appreciating the evidence, the trial Court dismissed HRC No.1/79 relating to the bigger shop and allowed HRC No.2/79 in regard to smaller shop. Feeling aggrieved by the rejection of HRC No.1/79, the landlord filed HRC RP 66/89. Feeling aggrieved by the order of eviction in HRC No.2/79, the tenant filed HRC RP 41/89. These two revision petitions were dismissed by the common order dated 9-2-1998. Feeling aggrieved by the rejection of his revision petition against

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the eviction order in HRC No.2/79, the tenant filed this revision petition under Section 115 of CPC.

3. First contention of the tenant is that the landlord is residing ⁱⁿ ~~with~~ the rear portion of the building and he can carry on the business in the said rear portion where he is residing. The second contention of the tenant is that the landlord ^{does} ~~will~~ not have the necessary funds to start the business in Shoes and other items. Third contention is that the tenant would be put to greater hardship. The last contention is that the landlord is old and therefore he does not require the premises.

4. The landlord has contended that he belongs to Scheduled Caste; that he is a cobbler by profession and he does not have any other premises for carrying on the business and he wants to carry on the business in preparing and selling leather Chappals and Shoes.

5. The tenant has not been able to make out that any of the said statements of the landlord is

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false or incorrect. The very fact that the person is aged, does not mean that he cannot carry on the business. If he does not have the means to livelihood or if he does not have any avocation, nothing prevents even an old man from carrying on the business. Further, in this case, if the landlord has become old, ^{it} is not his fault. He has filed this petition 20 years ago and the matter is still pending in Court. The Courts below have considered the comparative ^{hardship} ~~needs~~ and the landlord's petition in regard to larger shop has been rejected and consequently, there is virtually an order for partial eviction and the tenant continues to carry on the business in larger shop and that the eviction has been ordered only in regard to smaller shop. From the material on record, I am fully satisfied that the need put forth by the landlord is ^{bonafide and} reasonable and greater hardship would be caused to him if an order of eviction is not passed ^{in regard to the smaller shop.}

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6. There is absolutely no merit in this petition and there is no error which requires to be corrected in a proceedings under Section 115 CPC. Petition is rejected with costs of Rs.500/-.

7. At this stage, petitioner's counsel prays for reasonable time to vacate the premises. Learned counsel for the respondent opposes grant of time. Petitioner is ^{already} carrying on the business in the next bigger shop. Therefore no inconvenience would be caused if he has to vacate the premises. Further, proceedings have been pending from the year 1979. Hence, 15 days time is granted to the petitioner to vacate the premises.

Sd/-
JUDGE